

**2003 DRAFTING REQUEST****Bill**Received: **12/26/2002**Received By: **mshovers**Wanted: **As time permits**

Identical to LRB:

For: **Terry Musser (608) 266-7461**By/Representing: **Rep. Musser**This file may be shown to any legislator: **NO**Drafter: **mshovers**May Contact: **Curt Witynski**

Addl. Drafters:

Subject: **Munis - miscellaneous  
Counties - miscellaneous**Extra Copies: **RAC**Submit via email: **YES**Requester's email: **Rep.Musser@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Allow creation of county and city or village law enforcement agencies

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/P1	mshovers 01/07/2003	chanaman 01/30/2003	pgreensl 01/30/2003		lemery 01/30/2003		S&L
/1	mshovers 03/20/2003	jdye 03/24/2003	rschluet 03/24/2003		lemery 03/24/2003	lemery 10/23/2003	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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jdye

03/24/2003

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FE Sent For:

AA  
in mo.

<END>

03/24/2003 01:13:49 PM

Page 1

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*per Kathy for Assembly*

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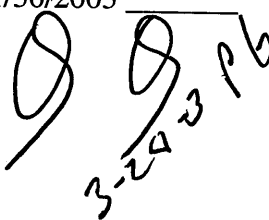
See Attached

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FE Sent For:

11 MES 3/19/03



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By/Representing: Rep. Musser

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact: Curt Witynski

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Counties - miscellaneous

Extra Copies:

Submit via email: YES

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1?	mshovers	cmh 1	1/30 per	1/30 per	submit		
1P1	MES	1/7/03					

FE Sent For:

<END>

# Statutory Impediments to Intergovernmental Cooperation and Consolidation

Prepared by Curt Witynski  
League of Wisconsin Municipalities  
(608) 267-2380

Municipalities recognize the savings and efficiencies that can result in reducing duplication of services through consolidation. However, archaic laws often thwart municipal efforts towards consolidation of services and local governments.

Following is a list of state laws impeding intergovernmental cooperation and consolidation, which the League of Wisconsin Municipalities is working to modify:

- ASK Curt about this*
- The procedure municipalities must follow under sec. 66.0307, Stats., to enter into a state approved cooperative boundary agreement is cumbersome and time consuming. If the process were easier and of shorter duration, perhaps more communities would use it. At a minimum, mandatory waiting periods between each step in the process should be reduced.
  - Under current law, consolidations between municipalities and towns are treated like incorporations. Before a proposed consolidation of two such contiguous communities can proceed under sec. 66.0229, Stats., the state Department of Administration and the circuit court must find that the consolidation is in the "public interest" as that term is defined under incorporation law. Current law provisions requiring a two-thirds vote of all members of each board or council and a ratification of the proposed consolidation in a referendum held in each community should be sufficient to bring about a consolidation.
  - The Attorney General has opined that a city with a population in excess of 4,000 and therefore subject to sec. 62.13, Wis. Stats., and a county cannot legally create a joint county-city law enforcement agency. See 60 Op. Att'y Gen. 85 (1971). Legislation should be enacted allowing the creation of a consolidated city-county law enforcement agency.
  - Under sec. 98.04, Stats., municipalities with populations exceeding 5,000 must establish their own weights and measures inspection department or contract with the department of agriculture, trade and consumer protection for the performance of such inspections. The statute should be modified to expressly allow municipalities to contract with one another to create joint weights and measures inspection units.
  - Current state law prohibits a city or a village from combining its police and fire departments into a single public safety department. See *Local Union No. 487 v. City of Eau Claire*, 147 Wis.2d 519 (1989). Indeed, it is questionable whether a municipality can even place its separate police and fire departments under the command of a single chief. Legislation should be enacted modifying sec. 62.13, Stats., to allow municipalities the option of creating public safety departments.

Notes/Instructions

1. Put Sheriff in charge from 12/23/02 meeting w/ Curt Witynski
- 2) Abolish city police depts. - allow villages to participate to.
- 3) City & County need have to agree on dispersment of assets & liabilities

See annexation law

- 4) allow common council to abolish police dept & K w/ Co for law enforcement services - Abolition can't take effect until both governing bodies ratify the agreement. City - County agreement must have 2 base elements:

- 1) division of assets & liabilities
- 2) minimal levels of law enforcement service to be provided to cities
- 3) procedure for cities to ask for (and pay for) higher levels of service from county - temporary & permanent
- 4) Ref to 59.03 agreement.

other elements? what about cities in multiple counties?

Implications for city caps?  
citizen complaint forum?

City selection/input in any county chg.  
service comm that → discipline



② re: creating a city-county law enforcement agency

1) Who would be in charge? --

Sheriff would be best because he's a Const. Officer

2) Would city police depts that → consolidate essentially be abolished?

3) What role would (former) chief of police have?

4) Would ~~city~~ ordinances enforced by consoli/cc dept be enforceable in the city; ~~or~~ would officers get to choose which law to enforce? ~~Also~~ Would this be a non issue -- city goods enforced by consoli/cc officer in city & city goods enforced by consoli/cc officer outside of city?

5) What's the role of the (now required) board of police & fire comms.  
Would there be such a board?

6) Who will employer be? County? City?

7) How are appointments handled? - i.e. Sheriff has broad powers to appoint deputies - In cities, chiefs appoint subordinates subject to board approval, & ~~also~~ various statutory rules in s. 13.13 (4),

How will county civil service system be integrated w/ city "slip list" hiring system

8) Police chief appointed by board & holds office during "good behavior" & may be susp for cause - - Sheriff is elected, const officer



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-12677

MES:.....

THURSDAY 1/30

PMR

cmh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

pm

- 1 AN ACT ...; relating to: authorizing a city or a village to abolish its police  
2 department and contract for law enforcement services with a county.

*Analysis by the Legislative Reference Bureau*

by → Generally under current law, each city is required to have a board of police and fire commissioners. The board is required to appoint the chief of police and the chief of the fire department, and the chiefs are required to appoint subordinates subject to approval by the board. Also under current law, a village with a population of 5,000 or more is required to provide police protection by creating its own police department, contracting for police protective services with a city, village, town, or county, or by creating a joint police department with a city, village, or town.

Current law authorizes a county to exercise any of its powers to provide services, such as water, sewer, streets and highways, fire, police, and health, in any municipality (city, village, or town), or part of a municipality that is located in the county, upon the request of the municipality. The municipality may adopt a resolution designating the function it would like the county to assume and the terms under which the power shall be exercised. If the county board approves the resolution, the county may then exercise the designated function in the municipality, and the county and municipality may enter into a contract under which the municipality agrees to appropriate money to the county to pay for the service to be provided by the county.

This bill specifically authorizes a city or a village to abolish its police department if it enters into a contract with a county for the sheriff to provide law enforcement services within those parts of a city or village that are located within the

the

county. If a city or village is in more than one county, the city or village must enter into similar contracts with all of the counties in which the city or village is located.

Before a city or village may enter into such a contract, the common council or village board must adopt a resolution requesting that the county provide police protective services and stating that the services are to be provided exclusively by the county, and the county must approve the resolution. The contract must address at least the following issues:

1. The division of the city's assets and liabilities that relate to the city's police department.

2. A description of the level of services that the county will provide and the amount that the city will pay for the services.

3. A procedure for the city to request, or require, additional law enforcement services and the amount that the city will have to pay for the services.

4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

No agreement that is entered into may take effect before the termination of any collective bargaining agreement that covers the city's police department employees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 59.03 (2) (c) of the statutes is amended to read:

2       59.03 (2) (c) Whenever the request under par. (a) or acceptance under par. (b)  
3 of a municipality shall be by resolution of its governing board, such request or  
4 acceptance shall not go into effect until the expiration of 60 days from the adoption  
5 of the resolution or, in the case of county law enforcement services provided to a city  
6 as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20  
7 for direct legislation on the request or acceptance shall be filed before the expiration  
8 of said 60 days, the resolution of the governing board shall be of no effect but the  
9 request or acceptance of such municipality shall be determined by direct legislation.

History: 1995 a. 201 ss. 97, 99, 243.

10       **SECTION 2.** 59.27 (13) of the statutes is created to read:

1           59.27 (13) Enforce all city, or village, ordinances in a city, or village, in which  
2           the sheriff provides law enforcement services under a contract described under s.  
3           62.13 (2s) (a).

4           **SECTION 3.** 61.65 (1) (a) 4. of the statutes is created to read:

5           61.65 (1) (a) 4. Abolishing its police department and entering into a contract  
6           with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement  
7           services in all parts of the village that are located in the county. If the village is  
8           located in more than one county, it may not abolish its police department under this  
9           subsection unless the village enters into contracts under this subsection with each  
10          county in which the village is located. If a village wishes to abolish its police  
11          department under this subdivision, it shall act under s. 62.13 (2s), and ~~that~~  
12          <sup>s. 62.13 (2s)</sup> ~~subsection~~ as it applies to cities, applies to villages.

13          **SECTION 4.** 62.09 (1) (a) of the statutes is amended to read:

14          62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller,  
15          attorney, engineer, one or more assessors unless the city is assessed by a county  
16          assessor under s. 70.99, one or more constables as determined by the common  
17          council, a local health officer, as defined in s. 250.01 (5), or local board of health, as  
18          defined in s. 250.01 (3), street commissioner, board of police and fire commissioners  
19          except in cities where not applicable, chief of police except in a city which has  
20          abolished its police department under s. 62.13 (2s), chief of the fire department,  
21          board of public works, 2 alderpersons from each aldermanic district, and such other  
22          officers or boards as are created by law or by the council. If one alderperson from each  
23          aldermanic district is provided under s. 66.0211 (1), the council may, by ordinance  
24          adopted by a two-thirds vote of all its members and approved by the electors at a

1 general or special election, provide that there shall be 2 alderpersons from each  
2 aldermanic district.

History: 1971 c. 154, 175; 1971 c. 304 s. 29 (1); 1973 c. 90, 243; 1975 c. 21, 39, 41, 199, 258; 1975 c. 375 s. 44; 1975 c. 421; 1977 c. 29, 151; 1977 c. 305 s. 64; 1979 c. 34, 221, 251; 1981 c. 20, 317; 1983 a. 189 s. 329 (21); 1983 a. 210, 395; 1983 a. 532 ss. 10, 14; 1985 a. 29, 39; 1985 a. 135 s. 83 (5); 1985 a. 225; 1987 a. 27, 181, 378; 1989 a. 31, 56, 113; 1991 a. 39, 316; 1993 a. 27, 184, 490; 1995 a. 225; 1997 a. 27, 257; 1999 a. 32; 1999 a. 150 s. 299, 672; 2001 a. 16.

3 SECTION 5. 62.13 (1) of the statutes is amended to read:

4 62.13 (1) COMMISSIONERS. Except as provided in ~~sub. (1m)~~ (2m) sub. subs. and (2s), each city  
5 shall have a board of police and fire commissioners consisting of 5 citizens, 3 of whom  
6 shall constitute a quorum. The mayor shall annually, between the last Monday of  
7 April and the first Monday of May, appoint in writing to be filed with the secretary  
8 of the board, one member for a term of 5 years. No appointment shall be made which  
9 will result in more than 3 members of the board belonging to the same political party.  
10 The board shall keep a record of its proceedings.

History: 1971 c. 41 s. 12; 1971 c. 213 s. 5; 1975 c. 94 ss. 26, 91 (5); 1975 c. 199; 1977 c. 20; 1977 c. 29 s. 1654 (8) (c); 1977 c. 151, 182, 196; 1981 c. 171, 380; 1981 c. 390 s. 252; 1981 c. 391 s. 211; 1985 a. 135 s. 83 (3), (5); 1985 a. 166; 1987 a. 27; 1989 a. 31, 192; 1991 a. 32, 101, 189; 1993 a. 16, 53, 144, 213; 1995 a. 225, 270; 1999 a. 182.

11 SECTION 6. 62.13 (2s) of the statutes is created to read:

12 62.13 (2s) ABOLITION OF POLICE DEPARTMENT, COUNTY LAW ENFORCEMENT. (a)  
13 Subject to pars. (b) to (d), a city may abolish its police department if it enters into a  
14 contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law  
15 enforcement services in all parts of the city that are located in the county. If the city  
16 is located in more than one county, it may not abolish its police department under this  
17 subsection unless the city enters into contracts under this subsection with each  
18 county in which the city is located.

19 (b) If a city wishes to contract with a sheriff for law enforcement services, the  
20 common council shall adopt a resolution, as described under s. 59.03 (2) (a),  
21 requesting that such services be provided. The resolution shall provide that such  
22 services are to be provided exclusively by the county.

1 (c) The contract described under par. (a) shall address at least all of the  
2 following elements:

3 1. The division, with the county, of the city's assets and liabilities that relate  
4 to the city's police department and the amount that the county will pay, if any, for  
5 such assets.

6 2. A description of the level of law enforcement and the number of deputies that  
7 the county will provide to the city and the amount that the city will pay for the  
8 service.

9 3. A procedure for the city to request, or require, that the county provide  
10 additional law enforcement services and the cost the county may charge the city for  
11 providing additional services.

12 4. The term of the agreement and procedures for the renewal, extension, or  
13 termination of the agreement.

14 (d) No contract that is entered into under this subsection may take effect until  
15 all of the following occur:

16 1. The county board approves under s. 59.03 (2) (a) the resolution adopted  
17 under par. (b).

18 2. The governing bodies of the city and the county approve the contract.

19 3. The expiration of any collective bargaining agreement between the city and  
20 its police department employees.

21 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-126777dn  
MES:.....

*cml*

*date*

Representative Musser:

The instructions for this request, to authorize the creation of a joint city-county law enforcement agency, were not too detailed. Following your instruction to contact Curt Witynski with questions, I asked Curt to meet with me to help develop more comprehensive instructions. Because of constitutional, statutory, and practical concerns, certain choices were made which may not be consistent with your intent. Please review the draft carefully to ensure that it meets your intent and let me know if you'd like me to make any changes in the draft.

As an initial matter, I needed to resolve the question of who would be in charge of a joint agency. Because a sheriff is a constitutional officer, it seemed best to put the sheriff in charge and not the chief of police. Another problem arose, however, because the Wisconsin Constitution forbids a sheriff from holding more than one office (Article VII, section 3 (3)). Therefore, it may be unconstitutional for a sheriff to be in charge of the joint agency because a court could construe that position as being another office. Consequently, ~~it seems like~~ the safest legal path to follow is to simply authorize a city to abolish its police department if it enters into a contract with a county for the sheriff to provide the city with law enforcement services. Is this OK?

If this is OK, how do you want to address the situation that will arise when many police officers will, perhaps, lose their jobs if the police force for which they work is abolished? Because the hiring procedures for sheriff's deputies are different than ~~that~~ for police officers, police officers can't just become deputies. In addition, if all officers become deputies it seems that the cost savings from consolidation, which is a major reason for the drafting request, would be lost.

~~You should also know, however, that if this bill becomes law and some police officers lose their jobs because their police force is abolished, a court could rule that the officers have a property right in their jobs. In an analogous case a court held that a formerly classified employee who became unclassified by operation of statutory changes had a property right in the formerly classified position, if he or she is fired for a reason other than "just cause", even though the position became an "employment at will" position after the statutory change took effect. Please see *Bahr v. State Investment Board*, 186 Wis. 2d 379 (Ct. Apps., 1994.)~~

One option to partially address this situation is to "notwithstanding" some of the statutory provisions that relate to the hiring of deputies and allow the sheriff or county board to



hire deputies from the ranks of former police officers. If you choose this option, what standards would you like the sheriff or county board to apply in hiring these deputies? Could they hire all of them, or only a certain percentage?

Although villages, under current law, may contract with a county for the provision of law enforcement services, Curt thought that villages should be treated similarly to cities in this draft. Is this OK?

Please let me know if you would like any changes to the bill or if you would like to discuss any of the issues raised in this drafter's note.

Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: marc.shovers@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1267/P1dn  
MES:cmh:pg

January 30, 2003

Representative Musser:

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One option to partially address this situation is to "notwithstanding" some of the statutory provisions that relate to the hiring of deputies and allow the sheriff or county board to hire deputies from the ranks of former police officers. If you choose this option, what standards would you like the sheriff or county board to apply in hiring these deputies? Could they hire all of them, or only a certain percentage?

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Marc E. Shovers  
Senior Legislative Attorney  
Phone: (608) 266-0129  
E-mail: [marc.shovers@legis.state.wi.us](mailto:marc.shovers@legis.state.wi.us)

To: Representative Terry Musser

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: February 12, 2003

Re: LRB-1267/P1dn, Authorizing a City or Village to Abolish its Police Department and Contract for Law Enforcement Services with the County

Thanks for seeking my comments on the joint city-county law enforcement agency bill draft. The general approach taken by the drafter of authorizing a city or village to abolish its police department and contract for law enforcement services with the county makes sense.

The bill needs to address how former municipal police officers are to be treated. I recommend, as the drafter suggests, that the bill include language "notwithstanding" statutory provisions relating to the hiring of deputies and allow the sheriff or county board to hire deputies from the ranks of former municipal police officers. The bill should provide that if the number of deputies is increased as a result of the contract with the municipality or if any vacancies occur in the county sheriff's department within 2 years after the date the contract is entered into, the new positions or vacancies shall be filled first by applicants who are former municipal police officers whose positions were eliminated by the contract between the municipality and the county.

On page 5, line 6 add the following language after the word "service": *over and above the municipality's portion of the county's law enforcement levy*. So that the full sentence will read as follows:

2. A description of the level of law enforcement and the number of deputies that the county will provide to the city and the amount that the city will pay for the service over and above the municipality's portion of the county's law enforcement levy.

Thanks for having this proposal drafted. We look forward to working with you on this issue.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1267/F1

MES:cmh:pg

filed RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Not  
SDO -  
1/13/20

neg

1 AN ACT *to amend* 59.03 (2) (c), 62.09 (1) (a) and 62.13 (1); and *to create* 59.27  
2 (13), 61.65 (1) (a) 4. and 62.13 (2s) of the statutes; **relating to:** authorizing a  
3 city or a village to abolish its police department and contract for law  
4 enforcement services with a county.

---

***Analysis by the Legislative Reference Bureau***

Generally under current law, each city is required to have a board of police and fire commissioners. The board is required to appoint the chief of police and the chief of the fire department, and the chiefs are required to appoint subordinates subject to approval by the board. Also under current law, a village with a population of 5,000 or more is required to provide police protection by creating its own police department, by contracting for police protective services with a city, village, town, or county, or by creating a joint police department with a city, village, or town.

Current law authorizes a county to exercise any of its powers to provide services, such as water, sewer, streets and highways, fire, police, and health, in any municipality (city, village, or town), or part of a municipality that is located in the county, upon the request of the municipality. The municipality may adopt a resolution designating the function it would like the county to assume and the terms under which the power shall be exercised. If the county board approves the resolution, the county may then exercise the designated function in the municipality, and the county and municipality may enter into a contract under which the municipality agrees to appropriate money to the county to pay for the service to be provided by the county.

This bill specifically authorizes a city, or a village, to abolish its police department if it enters into a contract with a county for the sheriff to provide law enforcement services within those parts of the city or village that are located within the county. If a city or village is in more than one county, the city or village must enter into similar contracts with all of the counties in which the city or village is located.

Before a city or village may enter into such a contract, the common council or village board must adopt a resolution requesting that the county provide police protective services and stating that the services are to be provided exclusively by the county, and the county must approve the resolution. The contract must address at least the following issues:

1. The division of the city's assets and liabilities that relate to the city's police department.
2. A description of the level of services that the county will provide and the amount that the city will pay for the services.
3. A procedure for the city to request, or require, additional law enforcement services and the amount that the city will have to pay for the services.
4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

No agreement that is entered into may take effect before the termination of any collective bargaining agreement that covers the city's police department employees.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 59.03 (2) (c) of the statutes is amended to read:

59.03 (2) (c) Whenever the request under par. (a) or acceptance under par. (b) of a municipality shall be by resolution of its governing board, such request or acceptance shall not go into effect until the expiration of 60 days from the adoption of the resolution or, in the case of county law enforcement services provided to a city as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20 for direct legislation on the request or acceptance shall be filed before the expiration of said 60 days, the resolution of the governing board shall be of no effect but the request or acceptance of such municipality shall be determined by direct legislation.

SECTION 2. 59.27 (13) of the statutes is created to read:

1           59.27 (13) Enforce all city, or village, ordinances in a city, or village, in which  
2           the sheriff provides law enforcement services under a contract described under s.  
3           62.13 (2s) (a).

4           **SECTION 3.** 61.65 (1) (a) 4. of the statutes is created to read:

5           61.65 (1) (a) 4. Abolishing its police department and entering into a contract  
6           with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement  
7           services in all parts of the village that are located in the county. If the village is  
8           located in more than one county, it may not abolish its police department under this  
9           subsection unless the village enters into contracts under this subsection with each  
10          county in which the village is located. If a village wishes to abolish its police  
11          department under this subdivision, it shall act under s. 62.13 (2s), and s. 62.13 (2s),  
12          as it applies to cities, applies to villages.

13          **SECTION 4.** 62.09 (1) (a) of the statutes is amended to read:

14          62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller,  
15          attorney, engineer, one or more assessors unless the city is assessed by a county  
16          assessor under s. 70.99, one or more constables as determined by the common  
17          council, a local health officer, as defined in s. 250.01 (5), or local board of health, as  
18          defined in s. 250.01 (3), street commissioner, board of police and fire commissioners  
19          except in cities where not applicable, chief of police except in a city that has abolished  
20          its police department under s. 62.13 (2s), chief of the fire department, board of public  
21          works, 2 alderpersons from each aldermanic district, and such other officers or  
22          boards as are created by law or by the council. If one alderperson from each  
23          aldermanic district is provided under s. 66.0211 (1), the council may, by ordinance  
24          adopted by a two-thirds vote of all its members and approved by the electors at a

1 general or special election, provide that there shall be 2 alderpersons from each  
2 aldermanic district.

3 **SECTION 5.** 62.13 (1) of the statutes is amended to read:

4 62.13 (1) COMMISSIONERS. Except as provided in ~~sub.~~ subs. (2m) and (2s), each  
5 city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of  
6 whom shall constitute a quorum. The mayor shall annually, between the last  
7 Monday of April and the first Monday of May, appoint in writing to be filed with the  
8 secretary of the board, one member for a term of 5 years. No appointment shall be  
9 made which will result in more than 3 members of the board belonging to the same  
10 political party. The board shall keep a record of its proceedings.

11 **SECTION 6.** 62.13 (2s) of the statutes is created to read:

12 62.13 (2s) ABOLITION OF POLICE DEPARTMENT, COUNTY LAW ENFORCEMENT. (a)  
13 Subject to pars. (b) to (d), a city may abolish its police department if it enters into a  
14 contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law  
15 enforcement services in all parts of the city that are located in the county. If the city  
16 is located in more than one county, it may not abolish its police department under this  
17 subsection unless the city enters into contracts under this subsection with each  
18 county in which the city is located.

19 (b) If a city wishes to contract with a sheriff for law enforcement services, the  
20 common council shall adopt a resolution, as described under s. 59.03 (2) (a),  
21 requesting that such services be provided. The resolution shall provide that such  
22 services are to be provided exclusively by the county.

23 (c) The contract described under par. (a) shall address at least all of the  
24 following elements:



1. The division, with the county, of the city's assets and liabilities that relate to the city's police department and the amount that the county will pay, if any, for such assets.

2. A description of the level of law enforcement and the number of deputies that the county will provide to the city and the amount that the city will pay for the service. *in excess of the city's portion of the county's law enforcement levy*

3. A procedure for the city to request, or require, that the county provide additional law enforcement services and the cost the county may charge the city for providing additional services.

4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

(d) No contract that is entered into under this subsection may take effect until all of the following occur:

1. The county board approves under s. 59.03 (2) (a) the resolution adopted under par. (b).

2. The governing bodies of the city and the county approve the contract.

3. The expiration of any collective bargaining agreement between the city and its police department employees.

**(END)**

D-note


INSERT ANL

④ The bill also provides that if a city or village and a county enter into a contract for the county to provide law enforcement services a sheriff is required, for approximately <sup>two</sup>~~1~~ years after the contract takes effect, and to the greatest extent possible, to hire any additional deputies that are needed from the ranks of former police officers who lost their positions when their departments were abolished. This requirement on a sheriff applies notwithstanding any current law provisions governing the hiring of deputies, such as a requirement that deputies be hired from a list of persons with the highest scores on a civil service exam, although the requirement does not apply to the extent that it conflicts with a collective bargaining agreement between a county and its employees.

INSERT 2-9

SECTION 1. 59.26 (1) (intro.)<sup>✓</sup> of the statutes is amended to read:

59.26 (1) (intro.) Within 10 days after entering upon the duties of the office of sheriff, the sheriff shall appoint some proper person, who is a resident of the county, undersheriff. However, in counties with a population of 500,000 or more the appointment of an undersheriff is optional. In counties where the sheriff's department is under civil service, the sheriff, in conformity with county ordinance, may, at the request of the affected deputy, grant a leave of absence to a deputy sheriff who the sheriff has appointed undersheriff, or to any other position in the sheriff's department, upon the deputy's acceptance of the appointment. Any deputy in a county under civil service granted leave of absence under this subsection upon completion of the appointive position shall immediately be returned to the position of deputy sheriff and shall continue therein without loss of any rights under the civil service law. The sheriff, however, may not grant such leave of absence to a deputy sheriff until the sheriff first secures the consent of the board by resolution duly adopted by the board. Within 10 days after entering upon the duties of the office of



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sheriff, the sheriff shall also appoint, subject to sub. (10), deputy sheriffs for the county as follows:

**History:** 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107.

**SECTION 2.** 59.26 (2) of the statutes is amended to read:

59.26 (2) The Subject to sub. (10), the sheriff may appoint as many other deputies as the sheriff considers proper.

**History:** 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107.

**SECTION 3.** 59.26 (3) of the statutes is amended to read:

59.26 (3) The Subject to sub. (10), the sheriff may fill vacancies in the office of any such appointee, and he or she may appoint a person to take the place of any undersheriff or deputy who becomes incapable of executing the duties of that office.

**History:** 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107.

**SECTION 4.** 59.26 (8) (a) of the statutes is amended to read:

59.26 (8) (a) In any county with a population of less than 500,000, the board, by ordinance, may fix the number of deputy sheriffs to be appointed in that county at not less than that number required by sub. (1) (a) and (b) and may set the salary of those deputies. The Subject to sub. (10), the board may provide by ordinance that deputy sheriff positions be filled by appointment by the sheriff from a list of all persons with the 3 highest scores for each position based on a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the department of employment relations at the option of the board and it shall so provide by ordinance. The division of merit recruitment and selection in the department of employment relations shall, upon request of the board, conduct such examination according to the methods used in examinations for the state civil service and shall certify an eligible list of the names of all persons with the 3 highest scores on that

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CONT

examination for each position to the sheriff of that county who shall, subject to sub. (10), make an appointment from that list to fill the position within 10 days after he or she receives the eligible list. The county for which such examination is conducted shall pay the cost of that examination. If a civil service commission is decided upon for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision governing minimum compensation of the commissioners. The ordinance or an amending ordinance may provide for employee grievance procedures and disciplinary actions, for hours of work, for tours of duty according to seniority and for other administrative regulations. Any board provision consistent with this paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy sheriff position by promotion, the sheriff shall, subject to sub. (10),<sup>✓</sup> make the appointment to the position from a list of 3 deputy sheriffs who receive the highest scores in a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the department of employment relations at the option of the board and it shall so provide by ordinance.

**History:** 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107.

**SECTION 5.** 59.26 (10)<sup>✓</sup> of the statutes is created to read:

59.26 (10) (a) Notwithstanding the provisions in subs. (1) (intro.), (2), (3), and (8) (a),<sup>✓</sup> and subject to par. (b),<sup>✓</sup> if a county provides law enforcement services to a city or village under ss. 59.03 (2) (e)<sup>✓</sup> and 62.13 (2s)<sup>✓</sup> and if the sheriff hires additional \* deputies to provide the services, the sheriff shall, to the greatest extent possible, fill the additional deputy positions from the ranks of former police officers who lost their positions when their department was abolished under 62.13 (2s) (a). (This provision

NO  
# with regard to each contract that is entered  
into under D. 59.03(2)(e), NO  
#

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does not apply on or after the first day of the 25th<sup>✓</sup> month beginning after <sup>the</sup> ~~a~~/contract  
~~under s. 59.03(2)(a)~~ takes effect in <sup>the</sup> ~~a~~/county.

(b) Paragraph (a)<sup>✓</sup> applies only to the extent that it is not inconsistent with any  
collective bargaining agreement that is in effect between a county and its employees.

(end ins)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

dn  
MES: :pg

LRB-1267/1

jld

Representative Musser:

The language I created in s. 59.26 (10) (a) <sup>✓</sup> that relates to a sheriff being required to hire additional deputies from the ranks of former police officers <sup>✓</sup> "to the greatest extent possible" is designed to protect a sheriff who decides that, from the pool of former police officers, not enough qualified candidates exist. Is this OK? Also, created s. 59.26 (10) (b) <sup>✓</sup> is designed to prevent a legal problem if a county's labor agreement requires a sheriff to hire back a laid-off deputy, if an opening occurs, before any other person may be hired. Is this OK?

Marc E. Shovers  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1267/1dn  
MESjld:rs

March 24, 2003

Representative Musser:

The language I created in s. 59.26 (10) (a) that relates to a sheriff being required to hire additional deputies from the ranks of former police officers "*to the greatest extent possible*" is designed to protect a sheriff who decides that, from the pool of former police officers, not enough qualified candidates exist. Is this OK? Also, created s. 59.26 (10) (b) is designed to prevent a legal problem if a county's labor agreement requires a sheriff to hire back a laid-off deputy, if an opening occurs, before any other person may be hired. Is this OK?

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